

BOULDIN

E N G I N E E R I N G

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FEB 22 1994

February 18, 1994

William F. Caton, Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D. C. 20554

FCC - MAIL ROOM

Re: PETITION FOR RULEMAKING
Eaton P. Govan, III & Berton B. Cagle, Jr.
WUSK-FM, Jefferson City, Tennessee
WUSJ-FM, Elizabethton, Tennessee

Dear Mr. Caton:

On behalf of Eaton P. Govan, III, and Berton B. Cagle, Jr., submitted herewith are an original and Five (5) copies of a Petition For Rulemaking seeking to change the allotment of WUSK-FM from Channel 257A to Channel 256A and move the allotment from Jefferson City, Tennessee, to Cumberland Gap, Tennessee. Also sought is an upgrade of the allotment of WUSJ-FM, Elizabethton, Tennessee, from Channel 257C3 to 257C2.

The grant by the Commission of a Construction Permit for WTPM-FM, Kingsport, Tennessee, on January 6, 1994, created adequate mileage separation to accommodate this proposal.

The Petition For Rulemaking and its associated exhibits are indexed on the last page.

Also, enclosed is an additional "RETURN" copy of the Petition to be date-stamped and returned to this office in the attached self-addressed stamped envelope.

Please direct all inquiries and communications concerning this matter to the undersigned.

Respectfully submitted,



Roger Bouldin
Consulting Engineer

With enclosures

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

In the Matter of:)	
)	
Amendment of Section 73.202(b))	
Table of Allotments)	
FM Broadcast Stations)	
)	
Jefferson City, Tennessee)	MM Docket No:
WUSK-FM Channel 257A)	
Cumberland Gap, Tennessee)	
Channel 256A)	
Elizabethton, Tennessee)	
WUSJ-FM Channel 257C3)	
Elizabethton, Tennessee)	
Channel 257C2)	

To: Chief, Allocations Branch

PETITION FOR RULEMAKING

Comes now, Eaton P. Govan, III, and Berton B. Cagle, Jr., ("Petitioner"), licensee of both WUSK-FM, Jefferson City, Tennessee (Channel 257A), and WUSJ-FM, Elizabethton, Tennessee (Channel 257C3), pursuant to the provisions of Section 1.401 and Section 1.420(g)(i) of the Commission's Rules (47 CFR 1.401 and 47 CFR 1.420(g)(i)), requesting that the FM Table of Allotments in Section 73.202(b) of the Federal Communications Commission's Rules and Regulations be

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amended to change the allotment of WUSK-FM from Channel 257A to Channel 256A; to move the allotment from Jefferson City, Tennessee, to Cumberland Gap, Tennessee; and to upgrade the allotment of WUSJ-FM, Elizabethton, Tennessee, from Channel 257C3 to Channel 257C2 as follows:

<u>LOCATION</u>	<u>PRESENT</u>	<u>PROPOSED</u>
Jefferson City, Tennessee	257A	-----
Cumberland Gap, Tennessee	-----	256A
Elizabethton, Tennessee	257C3	257C2

There are compelling public interest justifications and ample Commission precedents for granting this rulemaking request, and, in support thereof, the following is shown:

CONTINGENCY

In January, 1993, Holston Valley Broadcasting Company, Inc., licensee of WTFM-FM, Kingsport, Tennessee, filed an application, and on January 6, 1994, the Commission granted a Construction Permit (File Number BPH-930121ID), to move the WTFM-FM transmitter/antenna site to a new location 41.66 kilometers east (Bearing 104.59° True) of the present site. Relocating the WTFM-FM transmitter site as

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authorized by the Construction Permit will create adequate spacing pursuant to 47 C.F.R. Section 73.207 for the re-allotment of WUSK-FM to Channel 256A at Cumberland Gap, Tennessee (See Exhibit 1). The Petitioner request that the instant Petition be granted following licensing of the WTFM-FM, Kingsport, Tennessee, antenna/transmitter site at the location authorized by the Construction Permit.

BACKGROUND

Jefferson City is situated just to the northeast of Knoxville, Tennessee, a growing urban area which is the 70th largest radio market in the nation according to the ranking of radio markets by Arbitron, Inc. Jefferson City is within the Arbitron Metro Survey Area of Knoxville. This forces WUSK-FM to compete with many higher powered Knoxville radio stations for audience share and advertising revenues.

Because of the intense competition from the Knoxville stations, over the last several years WUSK-FM has experienced a loss of listenership and community support and a declining financial status. The station was in receivership in 1985 when Defuniak Communications, Inc., purchased the facility. In subsequent years Defuniak tried several programming format changes, changed the station's call sign three times, and operated under a Limited Management Agreement (LMA)

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with an adjacent channel station (WNOX-FM, Loudon, Tennessee) in an attempt to attract an audience in the Knoxville market. However, a survey of the radio audience in Jefferson County, the county in which Jefferson City lies, showed that less than One (1%) Percent of the county's residents listened to the WUSK-FM (then WNDD-FM). Annual losses in excess of \$200,000.00 were sustained.

Recently, because of the poor financial performance, Defuniak Communications, Inc., sold the station and co-located WJFC-AM to Eaton P. Govan, III, and Berton B. Cagle, Jr., for substantially less than Defuniak had originally paid for the stations.

MOVE AWAY FROM URBANIZED AREA

The Petitioner now proposes to move the allotment of WUSK-FM to Cumberland Gap, Tennessee, moving the allotment away from the Knoxville urban area to give the facility an opportunity for stability without the burden of intense competition from the higher class, "big city" stations which dominate the listening audience and advertising revenues at the present location.

FIRST, LOCAL, AURAL, SERVICE FOR CUMBERLAND GAP, TENNESSEE

A grant of this request would provide a much needed first, local, aural service to the community of Cumberland Gap, Tennessee. The Petitioner proposes that the Commission amend the FM Table of

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Allotments to move the allotment of WUSK-FM from Jefferson City to Cumberland Gap as that community's first, local, aural service.

According to the 1990 U. S. Census, the population of Cumberland Gap, Tennessee was 210 while Clairborne County, the county in which Cumberland Gap lies, has a population of 21,137 persons. Cumberland Gap is situated along the Tennessee state line thus the proposed facility would also serve a substantial portion of Bell County, Kentucky, and Lee County, Virginia. Bell County has a population of 31,506 and Lee County's population is 9,231 persons. It is obvious that the Cumberland Gap area has a sizable population and that the citizens of Cumberland Gap would benefit from a first, local, aural service.

LARGER SERVICE AREA FOR WUSJ-FM

The proposed re-allotment of Station WUSK-FM would allow Station WUSJ-FM, Elizabethton, Tennessee, to upgrade from Class C3 to Class C2 which would provide independent public interest benefits flowing from the WUSK-FM move. As is shown on Exhibit 5, attached hereto, changing the allotment of WUSK-FM from Channel 257A to Channel 256A and moving the allotment to Cumberland Gap would create adequate distance separation in accordance with Section 73.207 for the higher class facility for WUSJ-FM.

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ENGINEERING CONSIDERATIONS

As can be seen from Exhibit 1, the proposed re-allotment of Channel 257A at Jefferson City to Channel 256A at Cumberland Gap would be consistent with the minimum distance separation of the Commission's Rules (47 CFR Section 73.207) following licensing of the new transmitter/antenna location of WTFM-FM, Kingsport, Tennessee, which was authorized by a Construction Permit (File Number BPH-930121ID) granted by the Commission on January 6, 1994.

MUTUALLY EXCLUSIVE WITH PRESENT WUSK-FM ALLOTMENT

The allotment of Channel 256A at Cumberland Gap, Tennessee, as is hereby proposed is mutually exclusive with the present allotment of WUSK-FM, Jefferson City, Tennessee (Channel 257A).

The reference coordinates for the proposed allocation of Channel 256A at Cumberland Gap, Tennessee, are:

36° 36' 56" North Latitude
83° 31' 00" West Longitude

With a site restriction of 13 kilometers to the east, there would be a large area in which to choose a suitable antenna location while meeting the Commission's minimum distance separation requirements (See Exhibit 2).

The proposed maximized Class A facilities at Cumberland Gap will provide a predicted 60 dBu (1 mV/m) signal to the population

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encompassed by an area of approximately 2,500 square kilometers. The distance to the 70 dBu F(50,50) contour for the proposed facility was computed using the procedure contained in Section 73.313 of the Rules and is plotted on Exhibit 3. Clearly, Channel 256A at the proposed geographic coordinates would provide full "city-grade" (70 dBu) coverage to the entirety of Cumberland Gap, Tennessee. Exhibit 4 "Terrain Profile" demonstrates that "line of site" would exist from the antenna through the principal city and there are no major obstructions in the intervening path from the proposed coordinates to the city of Cumberland Gap.

RADIO SERVICE TO JEFFERSON CITY PRESERVED

WJFC-AM (1480 kHz) is also licensed to Jefferson City, Tennessee and is co-owned with WUSK-FM by the Petitioner. Upon a grant of this Petition, WJFC-AM would continue to operate at the present location serving Jefferson City. Hence, the instant proposal would not remove the only radio service licensed to Jefferson City, Tennessee.

Additionally, the present antenna location of WUSK-FM is within the "city-grade" (70 dBu) contour of six other FM Broadcast Stations (See Chart A below) while only two FM Stations provide a 70 dBu or

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greater field strength over the proposed coordinates at Cumberland Gap.

CHART A

FM Stations Providing 70 dBu or Greater Signal Levels

AT PRESENT WUSK-FM ANTENNA LOCATION

<u>STATION</u>	<u>LOCATION</u>	<u>CLASS</u>	<u>DISTANCE (KM)</u>
WUOT-FM	Knoxville, Tennessee	C	33.12
WEZK-FM	Knoxville, Tennessee	C	32.37
WUSK-FM	Jefferson City, Tennessee	A	0.00
WOKI-FM	Oak Ridge, Tennessee	C	59.97
WMYU-FM	Sevierville, Tennessee	C1	30.22
WIMZ-FM	Knoxville, Tennessee	C	14.48
WIVK-FM	Knoxville, Tennessee	C	30.23

AT PROPOSED LOCATION

<u>STATION</u>	<u>LOCATION</u>	<u>CLASS</u>	<u>DISTANCE (KM)</u>
WXJB-FM	Harrogate, Tennessee	A	6.86
WIMZ-FM	Knoxville, Tennessee	C	56.50

It is obvious that, Cumberland Gap is served with a "city-grade" signal (70 dBu or greater) by far fewer stations than is Jefferson City.

A study of all the present and proposed allotments and assignments on Channel 257, on the three immediately upper adjacent channels, the three immediately lower adjacent channels, and on channels 203 and

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204 (IF channels removed 10.8 and 10.6 MHz respectively from 99.3 MHz) demonstrates that the allotment of WUSJ-FM, Elizabethton, could be upgraded from Class C3 to Class C2 consistent with all the minimum distance separation requirements of the Commission upon the proposed re-allotment of Station WUSK-FM (See Exhibit 5). Upgrading WUSJ-FM from Class C3 to Class C2 would increase the coverage area within the 1.0 mV/m contour from 4570 to 8033 square kilometers providing new service (60 dBu F(50,50) or greater) to the population within over 3560 square kilometers.

The reference coordinates for the upgraded Channel 257C2 at Elizabethton, Tennessee, are:

36° 20' 30" North Latitude
82° 14' 00" West Longitude

These geographic coordinates are located in the center of the city of Elizabethton, Tennessee; therefore, no terrain obstructions would exist. Clearly, the entire principal city would be encompassed by the "city-grade" (70 dBu) contour of Channel 257C2 at the proposed coordinates. Exhibit 6 shows that numerous sites exist for locating a transmitter/antenna.

The proposed Amendment of Section 73.202(b) Table of Allotments FM Broadcast Stations involves only WUSK-FM, Jefferson City, Tennessee,

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and WUSJ-FM, Elizabethton, Tennessee, which are both owned by the Petitioner. No other station would lose service or receive prohibited interference if the instant Petition were granted. No other person or community has expressed any interest in facilities that would be mutually exclusive with this request.

PETITIONER'S INTENTION TO APPLY

If this proposed amendment to the Table of Allotments is adopted by the Commission, the Petitioner intends, pursuant to the Rules of the Commission, to file applications for Construction Permits to avail themselves of the facilities proposed hereby. An Application for Construction Permit (FCC Form 301) will be filed to move the transmitter/antenna site and change the operating frequency of WUSK-FM. An application will also be filed for a construction permit to upgrade the class of WUSJ-FM from Class C3 to Class C2. If awarded the permits, the Petitioner pledges to promptly construct the facilities proposed hereby. The Petitioner has both the experience and financial qualifications to construct and operate the facilities sought.

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SUMMARY

As indicated above, the amendment of Section 73.202(b) of the Commission's Rules to move the allotment of WUSK-FM from Jefferson City to Cumberland Gap and to change the allocation from Channel 257A to Channel 256A would provide new service to a substantial area and population.

Additionally, the proposed upgrade of WUSJ-FM from Class C3 to Class C2 would provide new radio service to the population within approximately 3560 square kilometers.

A grant of this Petition would be consistent with the Commission's policies and rules:

1. Channel 256A at Cumberland Gap, Tennessee is mutually exclusive with Channel 257A at Jefferson City, Tennessee.
2. Moving WUSK-FM to Cumberland Gap would not deprive Jefferson City of its only radio station.
3. WUSK-FM would become the first radio service licensed to Cumberland Gap.
4. The proposed move would place the allotment of WUSK-FM farther away from Knoxville, Tennessee, so this proposal should not be perceived as a "big city move-in".

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5. WUSK-FM at the proposed geographic coordinates would provide full "city-grade" service to Cumberland Gap.
6. The proposed re-allotment of WUSK-FM would allow spacing for WUSJ-FM to upgrade from Class C3 to Class C2.
7. All of the Commission's mileage and distance separation requirements (Section 73.207) have been addressed and this proposal can be accommodated without jeopardizing any other present or proposed facility.
8. An amendment to the Table of Allotments as requested by this petition, if granted, would provide for efficient utilization of the FM Broadcast spectrum.
9. This Petition is consistent with Modification of FM and TV Authorizations (MM Docket 88-525), 4 FCC Rcd. 4870 (1989), recon. granted in part, 5 FCC Rcd. 7094 (1990).

The Petitioner intends to apply for the proposed facilities, if granted, and if awarded Construction Permits, to promptly construct and operate the facilities.

WHEREFORE, in view of the foregoing facts, Eaton Govan, III and Berton B. Cagle, Jr. ("Petitioner"), requests that the Table of Allotments FM Broadcast Stations (47 CFR Section 73.202(b)) be

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amended to change the allotment of WUSK-FM from Channel 257A to Channel 256A and to move the allotment from Jefferson City, Tennessee to Cumberland Gap, Tennessee. Further, the Petitioner requests that the allotment of WUSJ-FM, Elizabethton, Tennessee, be upgraded from Class C3 to Class C2.

Respectfully submitted,

EATON P. GOVAN, III & BERTON B. CAGLE, JR.

By: 
Eaton P. Govan, III

Dated: February 16, 1994

EATON P. GOVAN, III & BERTON B. CAGLE, JR.

P. O. Box 5188

Johnson City, Tennessee 37603

LIST OF EXHIBITS

- Exhibit 1 Channel Spacing Study - Channel 256A**
- Exhibit 2 Area To Locate Channel 256A**
- Exhibit 3 City-Grade Contour Plot & Data**
- Exhibit 4 City Radial Terrain Profile**
- Exhibit 5 Channel Spacing Study - Channel 257C2**
- Exhibit 6 Area To Locate Channel 257C2**

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**Eaton P. Govan, III & Berton B. Cagle, Jr.
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Channel Spacing Study - Channel 256A

EXHIBIT 1

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WUSK-FM, Jefferson City, Tennessee
WUSJ-FM, Elizabethton, Tennessee

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410 W. Locust Street #2 Johnson City, TN 37604

STUDY OF FM CHANNEL 256A

Latitude: 36-36-56

Longitude: 83-31-00

Translators Are Not Included

FCC Database: 940126

Call	Auth	Licensee Name	Chan	ERP-kW	Latitude	Az-to	Dist	Req
City of License		St FCC File No.	Freq	EAH-m	Longitude	-from	(km)	(km)
USED			253C		36-31-36	96.5	83.78	95
Kingsport		TN	98.5		82-35-14	277.1	-11.22	SHORT
Coordinates updated from LIC record			BLH7394					
WTFM	LIC	Holston Valley Broadc	253C	100.	36-31-36	96.5	83.78	95
Kingsport		TN BLH-7394	98.5	384	82-35-14	277.1	-11.22	SHORT
WTFM	APP	Holston Valley Broadc	253C	74.0*	36-25-54	99.0	125.20	95
Kingsport		TN BPH-930121ID	98.5	683	82-08-15	279.8	30.20	CLEAR
Amended 930624								
WSIPFM	LIC	S.I.P. Broadcasting C	255C1	94.	37-47-45	25.6	145.58	133
Paintsville		KY BLH-891031KC	98.9	183	82-48-04	206.0	12.58	CLEAR
USED			255C1		37-47-45	25.6	145.58	133
Paintsville		KY	98.9		82-48-04	206.0	12.58	CLEAR
Coordinates updated from LIC record			BLH860709KB					
WSPA FM	LIC	The Spartan Broadcast	255C	100.	35-10-12	145.2	194.87	165
Spartanburg		SC BLH-7774	98.9	582	82-17-27	325.9	29.87	CLEAR
USED			255C		35-10-12	145.2	194.87	165
Spartanburg		SC	98.9		82-17-27	325.9	29.87	CLEAR
Coordinates updated from LIC record			BLH7774					
WNOX	CP	Loudon Broadcasters,	256A	6.	35-47-10	217.2	115.36	115
Loudon		TN BPH-910424IG	99.1	100	84-17-24	36.7	0.36	CLOSE

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STUDY OF FM CHANNEL 256A

Latitude: 36-36-56
 Longitude: 83-31-00
 Translators Are Not Included
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FCC Database: 940126

Call	Auth	Licensee Name	Chan	ERP-kW	Latitude	Az-to	Dist	Req
City of License		St FCC File No.	Freq	EAH-m	Longitude	-from	(km)	(km)
WNOX	LIC	Loudon Broadcasters,	256A	3.00	35-47-10	217.2	115.36	115
Loudon		TN BLH-890113KE	99.1	100	84-17-24	36.7	0.36	CLOSE
Docket: 88-54								
	USED		256A		35-45-20	216.5	118.58	115
Loudon		TN	99.1		84-17-57	36.1	3.58	CLOSE
SITE RESTRICTED - EFFECTIVE 861208 Docket: 86-150								
WNDD	LIC	Defuniak Communicatio	257A	0.94	36-04-28	185.6	60.33	72
Jefferson City		TN BLH-931026KA	99.3	199	83-34-56	5.6	-11.67	SHORT
	USED		257A		36-04-28	185.6	60.33	72
Jefferson City		TN	99.3		83-34-56	5.6	-11.67	SHORT
Coordinates updated from LIC record BLH870702KB								
WUSJFM	CP	Tri-City Broadcasting	257C3	3.8	36-24-07	101.0	120.02	89
Elizabethton		TN BPH-930924IG	99.3	242	82-12-12	281.8	31.02	CLEAR
WUSJFM	LIC	Tri-City Broadcasting	257C3	0.42	36-25-53	99.0	125.18	89
Elizabethton		TN BLH-910314KB	99.3	655	82-08-16	279.8	36.18	CLEAR
	USED		257C3		36-25-53	99.0	125.18	89
Elizabethton		TN	99.3		82-08-16	279.8	36.18	CLEAR
Site Restricted-Effective 7-16-90-WUSJFM per D89-405 Docket: 89-405								
	USED		258C2		36-57-14	312.6	55.73	55
Corbin		KY	99.5		83-58-41	132.3	0.73	CLOSE
Coordinates updated from LIC record BLH891226KE								

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STUDY OF FM CHANNEL 256A

Latitude: 36-36-56
Longitude: 83-31-00
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FCC Database: 940126

WKDPFM	LIC	Eubanks Broadcasting,	258C2	25.0	36-57-14	312.6	55.73	55
Corbin		KY BLH-891226KE	99.5	216	83-58-41	132.3	0.73	CLOSE
	VACANT		259C3		37-02-56	58.4	92.84	42
Coeburn		VA	99.7		82-37-35	239.0	50.84	CLEAR

Site restricted-Effective 3-12-90-Reserved for WZQK per D90-122

AS PROPOSED			257C2		36-20-30	104.5	118.96	106
Elizabethton		TN	99.3		82-14-00	284.5	12.96	CLEAR

End of Constraints Study FM Channel 256A

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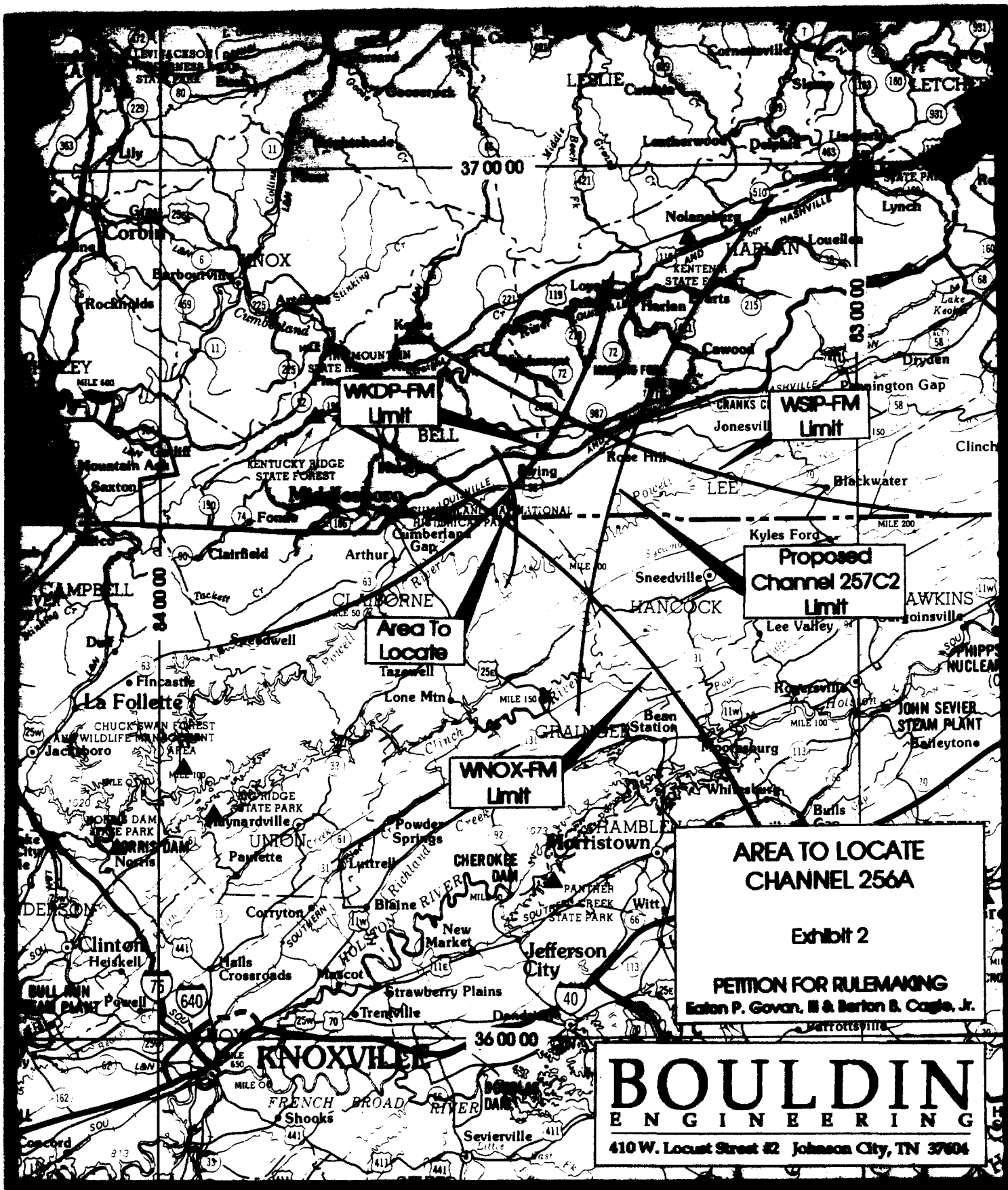
Area To Locate - Channel 256A

EXHIBIT 2

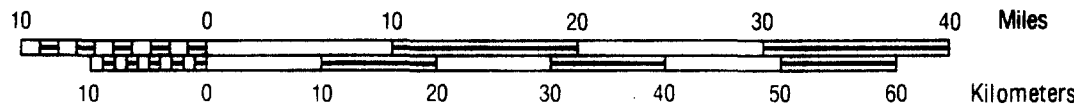
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City-Grade Contour Plot & Data

EXHIBIT 3

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PROPOSED CHANNEL 256A "CITY-GRADE" 70 dBu CONTOUR

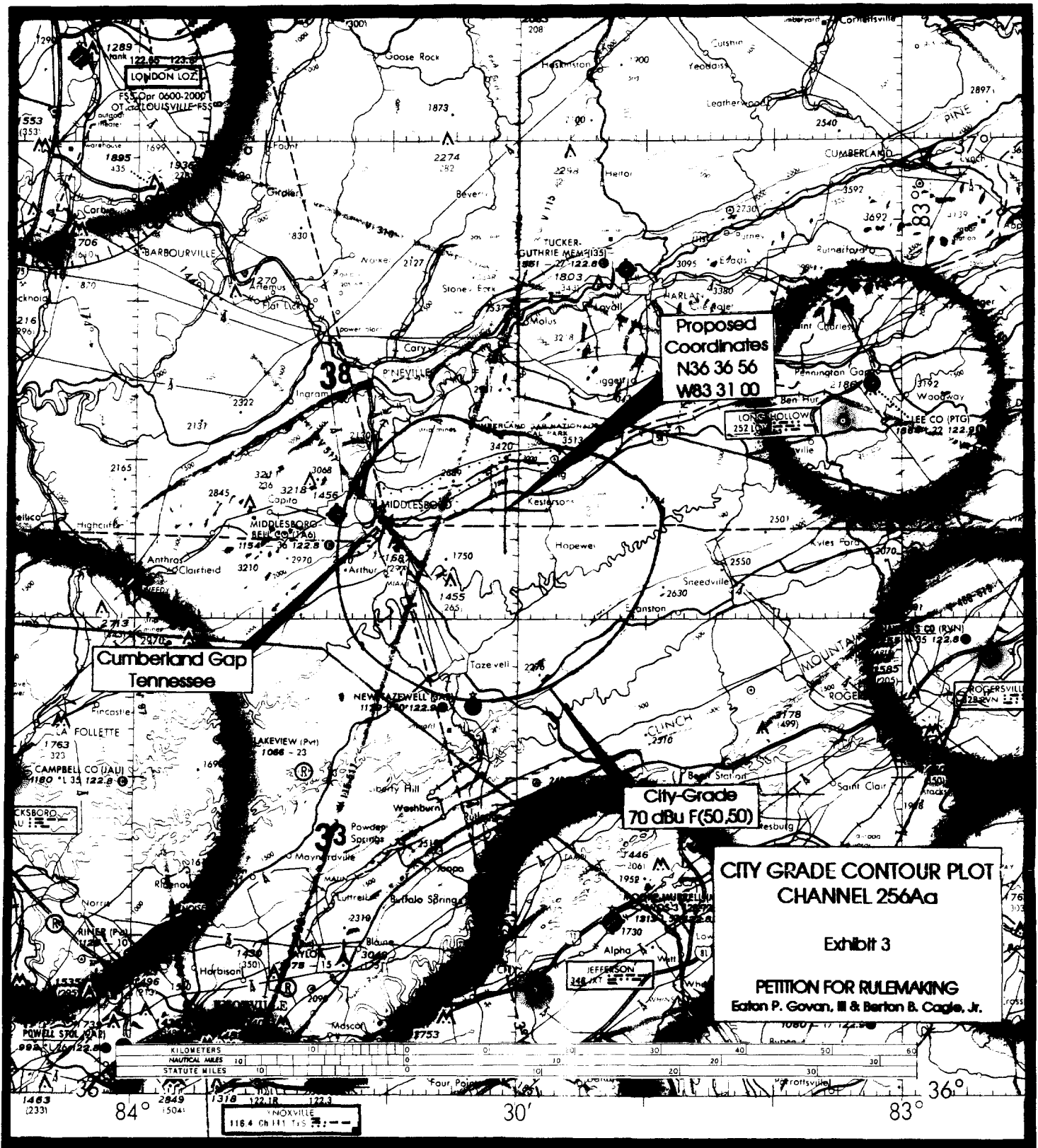
Latitude: 36-36-56
Longitude: 83-31-00
Based on 3 Second Terrain Data
Reference City: Cumberland Gap, TN

True Radial Bearing	Average Elevation	Radiation Center Height Above Average Terrain	Effective Radiated Power	Distance to Contour 70.0 dBu F(50,50)
Degrees	meters	meters	kW dBk	km
0.00	599.1	10.6	6.000 7.782	8.92
45.00	697.3	-87.6	6.000 7.782	8.92
90.00	478.0	131.6	6.000 7.782	18.75
135.00	461.0	148.6	6.000 7.782	19.94
180.00	429.5	180.2	6.000 7.782	21.85
225.00	414.1	195.6	6.000 7.782	22.64
270.00	478.3	131.3	6.000 7.782	18.73
315.00	519.9	89.7	6.000 7.782	15.17

Radiation Center (AMSL): 609.7 meters 2000.2 feet
Average Terrain (AMSL): 509.7 meters 1672.1 feet
Radiation Center (HAAT): 100.0 meters 328.1 feet
Area Within 70.0 dBu F(50,50) Contour is 375.7 sq. mi. or 973.1 sq. km

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City Radial Terrain Profile

EXHIBIT 4

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